

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08CV233-1-MU

JOHN AUSTIN JAMES, )  
                          )  
Petitioner,           )  
                          )  
v.                     )  
                          )  
NORTH CAROLINA,     )  
                          )  
Respondent.           )  
                          )

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**ORDER**

**THIS MATTER** comes before the Court for an initial review of Petitioner's Petition for Writ of Habeas Corpus and Petitioner's Application to Proceed In Forma Pauperis, both filed May 20, 2008.

A Petition for a Writ of Habeas Corpus requires a filing fee of \$5.00. After reviewing the affidavit in support of the application to proceed in forma pauperis, the Court concludes that Petitioner's application is insufficient. That is, his motion provides the Court with no information whatsoever about his financial situation. A copy of his prison trust account is necessary to determine whether he should be granted pauper status or not. Accordingly, his motion to proceed in forma pauperis is denied and his petition is dismissed without prejudice on that basis.

Furthermore, the Court notes that Petitioner did not name the state officer having custody of him as the respondent. Petitioner's Petition therefore does not comply with Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts which sets forth that

“the petition must name as respondent the state officer who has custody.” Petitioner’s federal habeas petition is dismissed without prejudice on this basis as well.

**THEREFORE, IT IS HEREBY ORDERED** that:

1. Petitioner’s Application to Proceed In Forma Pauperis is **DENIED**; and
2. Petitioner’s Petition for Writ of Habeas Corpus is **DISMISSED without prejudice**.

Signed: May 21, 2008



Graham C. Mullen  
United States District Judge

